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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/930,997 08/17/92 YALE

D 9208

EXAMINER

GULBRETH, E

F1M1

ROBERT S. NISEBETT
311 ANNIVERSARY DRIVE
LONGVIEW, TX 75604

ART UNIT

PAPER NUMBER

3106

DATE MAILED:

05/05/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined

☒ Responsive to communication filed on 2/22/93 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-848. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 8-17 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 1-7 have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 8-14 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-848).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☒ The proposed drawing correction, filed on 2/22/93, has been ☐ approved. ☒ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

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PART III-DETAILED ACTION

1. The drawings are objected to because references number 39 (Figures 7-8) refers to both the bellows and part of a bellows, which is improper. Correction is required.

2. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 C.F.R. § 1.85; 1097 OG 36

IN APPLICATIONS FILED BEFORE JANUARY 1, 1989 OPTION (a) OR (b) MAY BE USED IN ORDER TO CORRECT ANY INFORMALITY IN THE DRAWING.

IN APPLICATIONS FILED AFTER JANUARY 1, 1989 ONLY OPTION (a) MAY BE USED.

AFTER JANUARY 1, 1991 ONLY OPTION (a) MAY BE USED REGARDLESS OF FILING DATE.

(a) File new drawings with the changes incorporated therein. The art unit number, serial number and number of drawing sheets should be written on the reverse side of the drawings. Applicant may delay filing of the new drawings until receipt of the "Notice of Allowability" (PTOL-37). If delayed, the new drawing **MUST** be filed within the **THREE MONTH** shortened statutory period set for response in the "Notice of Allowability" (PTOL-37). Extensions of time may be obtained under the provisions of 37 C.F.R. § 1.136(a). The drawing should be filed as a separate paper with a transmittal letter addressed to the Official Draftsman.

(b) Request a commercial bonded drafting firm to make the necessary corrections. A bonded draftsman must be authorized, the corrections executed and the corrected drawings returned to the Office during the **THREE MONTH** shortened statutory period set for response in the "Notice of Allowability" (PTOL-37). Extensions of time may be obtained under the provisions of 37 C.F.R. § 1.136(a).

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the three month shortened statutory period set in the "Notice of Allowability" (PTOL-37). Within that three month period, two weeks should be allowed for review by the Office of the correction. If a correction is determined to be unacceptable by the Office, applicant must

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arrange to have an acceptable correction re-submitted within the original three month period to avoid the necessity of obtaining an extension of time and of paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within the set (or extended) period will result in **ABANDONMENT** of the application.

2. **Corrections other than Informalities Noted by Draftsman on the PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsman, **MUST** be made in the same manner as above except that, normally, a red ink sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Noting Paper No. 4, changes proposed for the drawings should be submitted in red ink on a copy of the drawings. The proposed changes to the drawings were not entered.

3. The amendment to page 2, line 2 was not entered because "versatile" is not in that line.

Similarly, "purposes" is not on page 4, line 4.

Also, it is noted that (page 4, line 4 amendment) the specification should not refer to Office statutes in describing the invention. Finally, the last paragraph on page 4 is still incomplete (the comma after "disclosure" should be changed to a semi-colon (;)).

4. The Abstract of the Disclosure is objected to because legal phraseology ("means" in lines 6 and 9) should not be used. Also,

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the quotation marks at the beginning and end of the abstract should be deleted. Correction is required. See M.P.E.P. § 608.01(b).

5. The disclosure is objected to because of the following informalities: The Summary of the Invention too long. Reference numeral 39A (page 19, lines 18 and 22; page 20 line 20) is not on the drawings, as proposed drawing changes were not properly submitted. Appropriate correction is required.

6. Regarding pages 3-4, it is now improper to incorporate a list of references in the specification (see 37 CFR 1.98). The material should be cancelled from the specification. For proper consideration, the list should be filed on a separate paper, along with copies of each reference and a description of relevance for each reference, as per 37 CFR 1.98.

7. Claims 8-17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, line 12, it would not appear to be accurate to recite the rear spring mount as "allowing adjustment". In claim 8, lines 18 and 21, there is no antecedent basis for "said air bellows spring" as air bellows spring means was previously recited. In claim 8, lines 25-26, there is no antecedent basis for "the tractor driver". Claims 9 and 10 are functional and

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inaccurate (the lower bracket, in resting on top of the leaf spring, would create stress due to movement, and insufficient structure has been recited to result in the bracket resting on top of the leaf spring without creating stress). In claim 11, there is no antecedent basis for "the rear spring shackle". The same applies to claim 12. In the last two lines of claim 13 and claims 14-15, there is no antecedent basis for "the air spring bellows". Also, in claims 14-15, "of the double bellows type" and "of the single bellows type" are indefinite, suggesting structure but not defining it. In claim 16, line 11, "the improvement" should be "an improvement". In claim 16, line 16, there is no antecedent basis for "said adjustable air bellows spring". In claim 10, last line "or" is indefinite. In claim 13, there is no antecedent basis for "the diameter".

8. The amendment filed February 22, 1993 is objected to under 35 U.S.C. § 132 because it introduces new matter into the specification. 35 U.S.C. § 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the recitations in claims 11-12 that the lower bracket extends one-half the distance to the rear shackle.

Applicant is required to cancel the new matter in the response to this Office action.

9. The following is a quotation of the first paragraph of 35

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U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as the invention, as now claimed, is not supported by the specification as originally.

The refers to claims 11-12 above.

10. Claims 11-12 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

11. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

12. Claims 8-14 and 16-17, as best understood, are rejected

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under 35 U.S.C. § 103 as being unpatentable over Selzer et al. in view of Harber et al. and Pribronic et al. (all of record).

Selzer et al. teach a tractor trailer (which would conventionally include a connecting device), frame 24 and leaf springs 14 pivotally secured at the forward end and pivotally and "adjustably" (inasmuch as applicant's) secured at the rear end at 26. Bellows "means" 28 is directly on and above the spring 14. Upper bracket 30 secures the top of the spring 28 to the frame. Harbers et al. discloses bellows with its center line aligned with the frame (Figure 5) and a lower bracket 76, 88, 88 extending a predetermined distance along the leaf spring top. Pribronic et al. teach spring 34 immediately behind axle 20 and adjustable means 38 inside the vehicle. It would have been obvious to one of ordinary skill in the art to modify Selzer et al. to include top and bottom mounting brackets such as taught by Harbers et al. in order to mount the bellows and to mount the spring immediately behind the axle and include adjusting means inside the cab as taught by Pribronic et al. in order to support the vehicle and allow ready adjustment of the springs without leaving the cab. As broadly and indefinitely recited, the lower bracket in the combination fits over the top of the spring without causing stress inasmuch as applicant's (claims 9-10) and forms a "saddle bracket" (Harbers' plates 76, 88, 88) as broadly recited. The lower bracket in the combination extends up to one

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half the distance to the rear shackle (noting Pribonic et al.) (claims 11-12). The size of the bracket (extending the diameter) is an obvious matter of design choice in view of the back of showing of criticality. At any rate, Harber's plate 76, which is part of the bracket, extends the diameter inasmuch as applicant's bracket 49 (claim 13). Selzer's bellows is a "double-type" (claim 14). As broadly recited in claim 16, the bellows may be adjusted "in any manner desired" inasmuch as applicant's disclosed invention. The pressure of the bellows is an obvious matter of design choice (claim 17), as it is obvious to optimize values for a situation (In re Boesch, 617 F. 2d 272, 205, USPQ 215 (CCPA 1980)). Noting applicant's remarks, the claims are not limited to "conventional" leaf springs and hence does not exclude Selzer, and the combination of the teachings does not have to be for the same purpose (improving steering) as applicant's. (In re Graf, 145 USPQ 197 (CCPA 1965); In re Finsterwalder, 168 USPQ 530 (CCPA 1971)).

Harbors et al's plates 76, 88, 88 meet applicant's broad recitation of a "saddle bracket". As the adjustment of the fifth wheel is no longer claimed, the remarks to Granning are immaterial. The examiner is not relying on a level of knowledge and expertise above one skilled in the art, but rather is relying on knowledge clearly present in the prior art (In re Sheckler 168 USPQ 716, 58 CCPA 936).

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13. Claim 15, as best understood, is rejected under 35 U.S.C. § 103 as being unpatentable over Selzer et al. in view of Harbers et al. and Pribonic et al. as applied to claim 8 above, and further in view of Assh (of record).

It would have been obvious to one of ordinary skill in the art to modify the combination of claim 8 to include a single type bellows as taught by Assh's bellows 23 in order to support the truck as an alternative bellows.

14. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Eric Culbreth whose telephone number is (703) 308-0360.

Serial No. 930997

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Culbreth:e.h.
April 28, 1993
May 04, 1993

Eric Culbreth

ERIC D. CULBRETH
EXAMINER
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5/5/93